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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 LAKIM INDUSTRIES, INC., a
12 California corporation DBA QUALI-
13 TECH MANUFACTURING
14 COMPANY,

15 Plaintiff/Counterclaim
16 Defendant

17 v.

18 LINZER PRODUCTS
19 CORPORATION, a New York
20 corporation;

21 Defendant/Counterclaim
22 Plaintiff.

CASE NO.: 2:12-cv-04976 ODW
(JEMx)

PROTECTIVE ORDER

[Patent L.R. 2-2]

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production
3 of confidential, proprietary, or private information for which special protection from
4 public disclosure and from use for any purpose other than prosecuting this litigation
5 may be warranted. Accordingly, the parties hereby stipulate to and petition the court
6 to enter the following Stipulated Protective Order. The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to discovery
8 and that the protection it affords from public disclosure and use extends only to the
9 limited information or items that are entitled to confidential treatment under the
10 applicable legal principles. The parties further acknowledge, as set forth in Section
11 14.4 below, that this Stipulated Protective Order does not entitle them to file
12 confidential information under seal; Civil Local Rule 79-5.1 and General Order No.
13 02-14 set forth the procedures that must be followed and the standards that will be
14 applied when a party seeks permission from the court to file material under seal.

15 2. DEFINITIONS

16 2.1 Challenging Party: a Party or Non-Party that challenges the designation
17 of information or items under this Order.

18 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
19 how it is generated, stored or maintained) or tangible things that qualify for protection
20 under Federal Rule of Civil Procedure 26(c).

21 2.3 Counsel (without qualifier): Outside Counsel of Record and House
22 Counsel (as well as their support staff).

23 2.4 Designated House Counsel: House Counsel who seek access to
24 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this
25 matter.

1 2.5 Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY,”
4 or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

5 2.6 Disclosure or Discovery Material: all items or information, regardless of
6 the medium or manner in which it is generated, stored, or maintained (including,
7 among other things, testimony, transcripts, and tangible things), that are produced or
8 generated in disclosures or responses to discovery in this matter.

9 2.7 Expert: a person with specialized knowledge or experience in a matter
10 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve
11 as an expert witness or as a consultant in this action, (2) is not a past or current
12 employee of a Party or of a Party's competitor, and (3) at the time of retention, is not
13 anticipated to become an employee of a Party or of a Party's competitor.

14 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY”
15 Information or Items: extremely sensitive “Confidential Information or Items,”
16 disclosure of which to another Party or Non-Party would create a substantial risk of
17 serious harm that could not be avoided by less restrictive means.

18 2.9 “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items:
19 extremely sensitive “Confidential Information or Items” representing computer code
20 and associated comments and revision histories, formulas, engineering specifications,
21 or schematics that define or otherwise describe in detail the algorithms or structure of
22 software or hardware designs, disclosure of which to another Party or Non-Party
23 would create a substantial risk of serious harm that could not be avoided by less
24 restrictive means.

1 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
2 Protected Material; and (3) any testimony, conversations, or presentations by Parties
3 or their Counsel that might reveal Protected Material. However, the protections
4 conferred by this Stipulation and Order do not cover the following information: (a)
5 any information that is in the public domain at the time of disclosure to a Receiving
6 Party or becomes part of the public domain after its disclosure to a Receiving Party as
7 a result of publication not involving a violation of this Order, including becoming part
8 of the public record through trial or otherwise; and (b) any information known to the
9 Receiving Party prior to the disclosure or obtained by the Receiving Party after the
10 disclosure from a source who obtained the information lawfully and under no
11 obligation of confidentiality to the Designating Party. Any use of Protected Material at
12 trial shall be governed by a separate agreement or order.

13 4. DURATION

14 Even after final disposition of this litigation, the confidentiality obligations
15 imposed by this Order shall remain in effect until a Designating Party agrees
16 otherwise in writing or a court order otherwise directs. Final disposition shall be
17 deemed to be the later of (1) dismissal of all claims and defenses in this action, with or
18 without prejudice; and (2) final judgment herein after the completion and exhaustion
19 of all appeals, rehearings, remands, trials, or reviews of this action, including the time
20 limits for filing any motions or applications for extension of time pursuant to
21 applicable law.

22 5. DESIGNATING PROTECTED MATERIAL

23 5.1 Exercise of Restraint and Care in Designating Material for Protection.

24 Each Party or Non-Party that designates information or items for protection under this
25 Order must take care to limit any such designation to specific material that qualifies
26 under the appropriate standards. To the extent it is practical to do so, the Designating
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1 Party must designate for protection only those parts of material, documents, items, or
2 oral or written communications that qualify – so that other portions of the material,
3 documents, items, or communications for which protection is not warranted are not
4 swept unjustifiably within the ambit of this Order.

5 Mass, indiscriminate, or routinized designations are prohibited. Designations
6 that are shown to be clearly unjustified or that have been made for an improper
7 purpose (e.g., to unnecessarily encumber or retard the case development process or to
8 impose unnecessary expenses and burdens on other parties) expose the Designating
9 Party to sanctions.

10 If it comes to a Designating Party's attention that information or items that it
11 designated for protection do not qualify for protection at all or do not qualify for the
12 level of protection initially asserted, that Designating Party must promptly notify all
13 other Parties that it is withdrawing the mistaken designation.

14 5.2 Manner and Timing of Designations. Except as otherwise provided in
15 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic documents,
21 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
22 Producing Party affix the legend "CONFIDENTIAL," "HIGHLY CONFIDENTIAL –
23 ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE"
24 to each page that contains protected material. If only a portion or portions of the
25 material on a page qualifies for protection, the Producing Party also must clearly
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1 identify the protected portion(s) (e.g., by making appropriate markings in the margins)
2 and must specify, for each portion, the level of protection being asserted.

3 A Party or Non-Party that makes original documents or materials available for
4 inspection need not designate them for protection until after the inspecting Party has
5 indicated which material it would like copied and produced. During the inspection and
6 before the designation, all of the material made available for inspection shall be
7 deemed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." After the
8 inspecting Party has identified the documents it wants copied and produced, the
9 Producing Party must determine which documents, or portions thereof, qualify for
10 protection under this Order. Then, before producing the specified documents, the
11 Producing Party must affix the appropriate legend ("CONFIDENTIAL," "HIGHLY
12 CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL
13 – SOURCE CODE") to each page that contains Protected Material. If only a portion
14 or portions of the material on a page qualifies for protection, the Producing Party also
15 must clearly identify the protected portion(s) (e.g., by making appropriate markings in
16 the margins) and must specify, for each portion, the level of protection being asserted.

17 (b) for testimony given in deposition or in other pretrial or trial proceedings,
18 that the Designating Party identify on the record, if possible, before the close of the
19 deposition, hearing, or other proceeding, all protected testimony and specify the level
20 of protection being asserted. If no designation is made before conclusion of the
21 deposition, the entire deposition will be treated as CONFIDENTIAL- ATTORNEY
22 EYES ONLY for 21 days. Before the 21 days expires, the Designating Party shall
23 identify the specific portions of the testimony as to which protection is sought and to
24 specify the level of protection being asserted. If no designation is made during the
25 deposition or during the 21 day period, the entire transcript shall be treated as non-
26 confidential, unless subsequently re-designated pursuant to Paragraph 5.3 of this

Order. Where practical to do so, pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material should be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order. Separately-bound transcripts containing Protected Material shall have an obvious legend on the title page that the transcript contains Protected Material, and the level of protection being asserted by the Designating Party.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s) and specify the level of protection being asserted.

5.3 Inadvertent Failures to Designate. If corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

1 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process by providing written notice of each designation it is challenging
3 and describing the basis for each challenge. To avoid ambiguity as to whether a
4 challenge has been made, the written notice must recite that the challenge to
5 confidentiality is being made in accordance with this specific paragraph of the
6 Protective Order. The parties shall attempt to resolve each challenge in good faith and
7 must begin the process by conferring directly within 14 days of the date of service of
8 notice. In conferring, the Challenging Party must explain the basis for its belief that
9 the confidentiality designation was not proper and must give the Designating Party an
10 opportunity to review the designated material, to reconsider the circumstances, and, if
11 no change in designation is offered, to explain the basis for the chosen designation. A
12 Challenging Party may proceed to the next stage of the challenge process only if it has
13 engaged in this meet and confer process first or establishes that the Designating Party
14 is unwilling to participate in the meet and confer process in a timely manner.

15 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
16 court intervention, either party may file and serve a motion to retain or dispute
17 confidentiality.

18 The burden of persuasion in any such challenge proceeding shall be on the
19 Designating Party. Frivolous challenges and those made for an improper purpose (e.g.,
20 to harass or impose unnecessary expenses and burdens on other parties) may expose
21 the Challenging Party to sanctions. Absent an agreement between the parties or a
22 Court Order re-designating the material at issue, all parties shall continue to afford the
23 material in question the level of protection to which it is entitled under the Producing
24 Party's designation until the court rules on the challenge.

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 3 disclosed or produced by another Party or by a Non-Party in connection with this case
 4 only for prosecuting, defending, or attempting to settle this litigation. Such Protected
 5 Material may be disclosed only to the categories of persons and under the conditions
 6 described in this Order. When the litigation has been terminated, a Receiving Party
 7 must comply with the provisions of section 15 below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a
 9 location and in a secure manner that ensures that access is limited to the persons
 10 authorized under this Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
 12 otherwise ordered by the court or permitted in writing by the Designating Party, a
 13 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
 14 only to:

15 (a) the Receiving Party’s Outside Counsel of Record in this action, as well
 16 as employees of said Outside Counsel of Record to whom it is reasonably necessary to
 17 disclose the information for this litigation and who have signed the “Acknowledgment
 18 and Agreement to Be Bound” that is attached hereto as Exhibit A;

19 (b) the officers, directors, and employees (including House Counsel) of the
 20 Receiving Party to whom disclosure is reasonably necessary for this litigation and
 21 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (c) Experts (as defined in this Order) of the Receiving Party to whom
 23 disclosure is reasonably necessary for this litigation and who have signed the
 24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25 (d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items.

Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

(b) Designated House Counsel of the Receiving Party (1) who has no involvement in competitive decision-making, (2) to whom disclosure is reasonably necessary for this litigation, (3) who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (4) as to whom the procedures set forth in paragraph 7.4(a)(1), below, have been followed;¹

¹ This Order contemplates that Designated House Counsel shall not have access to any information or items designated “HIGHLY CONFIDENTIAL – SOURCE CODE.”

(c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

(f) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items to Designated House Counsel or Experts.

(a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party, a Party that seeks to disclose to Designated House Counsel any information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1) sets forth the full name of the Designated House Counsel and the city and state of his or her residence and (2) describes the Designated House Counsel’s current and reasonably foreseeable future primary job duties and responsibilities in sufficient detail to determine if House Counsel is involved, or may become involved, in any competitive decision-making.

(a)(2) Unless otherwise ordered by the court or agreed to in writing by the Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has been designated “HIGHLY CONFIDENTIAL –

1 ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE"
 2 pursuant to paragraph 7.3(c) first must make a written request to the Designating Party
 3 that (1) identifies the general categories of "HIGHLY CONFIDENTIAL –
 4 ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE"
 5 information that the Receiving Party seeks permission to disclose to the Expert, (2)
 6 sets forth the full name of the Expert and the city and state of his or her primary
 7 residence, (3) attaches a copy of the Expert's current resume, (4) identifies the
 8 Expert's current employer(s), (5) identifies each person or entity from whom the
 9 Expert has received compensation or funding for work in his or her areas of expertise
 10 or to whom the expert has provided professional services, including in connection
 11 with a litigation, at any time during the preceding five years,² and (6) identifies (by
 12 name and number of the case, filing date, and location of court) any litigation in
 13 connection with which the Expert has offered expert testimony, including through a
 14 declaration, report, or testimony at a deposition or trial, during the preceding five
 15 years.

16 (b) A Party that makes a request and provides the information specified in
 17 the preceding respective paragraphs may disclose the subject Protected Material to the
 18 identified Designated House Counsel or Expert unless, within 14 days of delivering
 19 the request, the Party receives a written objection from the Designating Party. Any
 20 such objection must set forth in detail the grounds on which it is based.

21 (c) A Party that receives a timely written objection must meet and confer
 22 with the Designating Party (through direct voice to voice dialogue) to try to resolve
 23 the matter by agreement within seven days of the written objection. If no agreement is
 24 reached, the Party seeking to make the disclosure to Designated House Counsel or the

25 _____
 26 ² If the Expert believes any of this information is subject to a confidentiality obligation to a third-
 27 party, then the Expert should provide whatever information the Expert believes can be disclosed
 28 without violating any confidentiality agreements, and the Party seeking to disclose to the Expert
 shall be available to meet and confer with the Designating Party regarding any such engagement.

1 Expert may file a motion as provided in Section 6.3 of this Order (and in compliance
2 with Civil Local Rule 79-5.1 and General Order No. 02-14, if applicable) seeking
3 permission from the court to do so. Any such motion must describe the circumstances
4 with specificity, set forth in detail the reasons why disclosure to Designated House
5 Counsel or the Expert is reasonably necessary, assess the risk of harm that the
6 disclosure would entail, and suggest any additional means that could be used to reduce
7 that risk. In addition, any such motion must be accompanied by a competent
8 declaration describing the parties' efforts to resolve the matter by agreement (i.e., the
9 extent and the content of the meet and confer discussions) and setting forth the reasons
10 advanced by the Designating Party for its refusal to approve the disclosure.

11 In any such proceeding, the Party opposing disclosure to Designated House
12 Counsel or the Expert shall bear the burden of proving that the risk of harm that the
13 disclosure would entail (under the safeguards proposed) outweighs the Receiving
14 Party's need to disclose the Protected Material to its Designated House Counsel or
15 Expert.

16 8. PROSECUTION BAR

17 The Parties have discussed whether to include a "prosecution bar" provision in
18 this agreement, but have been unable to reach an agreement on this issue at this time.
19 Instead, the parties have agreed to reserve all argument on this provision subject to the
20 following: If during the course of the litigation of this matter a party wishes to
21 disclose certain confidential information subject to a prosecution bar, that party
22 shall describe to the Receiving Party the nature of the confidential information in a
23 manner that, without revealing the confidential information, will enable the Receiving
24 party to evaluate the need to have the matter decided by the Court. If the issue cannot
25 be resolved by the parties, the parties reserve all rights to move the Court for relief. In
26 any event, any prosecution bar will be limited to only those attorneys who receive
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1 access to the confidential information and will not bar any other attorney in the
2 specific attorney's firm who has not received access to the confidential information
3 from prosecuting, or participating in the prosecution of, any patent application.

4 9. SOURCE CODE

5 (a) To the extent production of source code becomes necessary in this case, a
6 Producing Party may designate source code as "HIGHLY CONFIDENTIAL –
7 SOURCE CODE" if it comprises or includes confidential, proprietary or trade secret
8 source code.

9 (b) Protected Material designated as "HIGHLY CONFIDENTIAL –
10 SOURCE CODE" shall be subject to all of the protections afforded to "HIGHLY
11 CONFIDENTIAL – ATTORNEYS' EYES ONLY" information, including the
12 Prosecution Bar set forth in Paragraph 8, and may be disclosed only to the individuals
13 to whom "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information
14 may be disclosed, as set forth in Paragraphs 7.3 and 7.4, with the exception of
15 Designated House Counsel.

16 (c) Any source code produced in discovery shall be made available for
17 inspection, in a format allowing it to be reasonably reviewed and searched, during
18 normal business hours or at other mutually agreeable times, at an office of the
19 Producing Party's counsel or another mutually agreed upon location. The source code
20 shall be made available for inspection on a secured computer in a secured room
21 without Internet access or network access to other computers, and the Receiving Party
22 shall not copy, remove, or otherwise transfer any portion of the source code onto any
23 recordable media or recordable device. The Producing Party may visually monitor the
24 activities of the Receiving Party's representatives during any source code review, but
25 only to ensure that there is no unauthorized recording, copying, or transmission of the
26 source code.

(d) The Receiving Party may request paper copies of limited portions of source code that are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other papers, or for deposition or trial, but shall not request paper copies for the purpose of reviewing the source code other than electronically as set forth in paragraph (c) in the first instance. The Producing Party shall provide all such source code in paper form, including bates numbers and the label “HIGHLY CONFIDENTIAL – SOURCE CODE.” The Producing Party may challenge the amount of source code requested in hard copy form pursuant to the dispute resolution procedure and timeframes set forth in Paragraph 6 whereby the Producing Party is the “Challenging Party” and the Receiving Party is the “Designating Party” for purposes of dispute resolution.

(e) The Receiving Party shall maintain a record of any individual who has inspected any portion of the source code in electronic or paper form. The Receiving Party shall maintain all paper copies of any printed portions of the source code in a secured, locked area. The Receiving Party shall not create any electronic or other images of the paper copies and shall not convert any of the information contained in the paper copies into any electronic format. The Receiving Party shall only make additional paper copies if such additional copies are (1) necessary to prepare court filings, pleadings, or other papers (including a testifying expert’s expert report), (2) necessary for deposition, or (3) otherwise necessary for the preparation of its case. Any paper copies used during a deposition shall be retrieved by the Producing Party at the end of each day and must not be given to or left with a court reporter or any other unauthorized individual.

10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as

1 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,”
2 or “HIGHLY CONFIDENTIAL – SOURCE CODE,” that Party must:

3 (a) promptly notify in writing the Designating Party. Such notification shall
4 include a copy of the subpoena or court order;

5 (b) promptly notify in writing the party who caused the subpoena or order to
6 issue in the other litigation that some or all of the material covered by the subpoena or
7 order is subject to this Protective Order. Such notification shall include a copy of this
8 Stipulated Protective Order; and

9 (c) cooperate with respect to all reasonable procedures sought to be pursued
10 by the Designating Party whose Protected Material may be affected.³

11 If the Designating Party timely seeks a protective order, the Party served with
12 the subpoena or court order shall not produce any information designated in this
13 action as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
14 ONLY.” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a determination
15 by the court from which the subpoena or order issued, unless the Party has obtained
16 the Designating Party’s permission. The Designating Party shall bear the burden and
17 expense of seeking protection in that court of its confidential material – and nothing in
18 these provisions should be construed as authorizing or encouraging a Receiving Party
19 in this action to disobey a lawful directive from another court.

20 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
21 IN THIS LITIGATION

22 (a) The terms of this Order are applicable to information produced by a Non-
23 Party in this action and designated as “CONFIDENTIAL,” “HIGHLY
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL
25

26 ³ The purpose of imposing these duties is to alert the interested parties to the existence of this
27 Protective Order and to afford the Designating Party in this case an opportunity to try to protect its
28 confidentiality interests in the court from which the subpoena or order issued.

1 – SOURCE CODE.” Such information produced by Non-Parties in connection with
 2 this litigation is protected by the remedies and relief provided by this Order. Nothing
 3 in these provisions should be construed as prohibiting a Non-Party from seeking
 4 additional protections.

5 (b) In the event that a Party is required, by a valid discovery request, to
 6 produce a Non-Party’s confidential information in its possession, and the Party is
 7 subject to an agreement with the Non-Party not to produce the Non-Party’s
 8 confidential information, then the Party shall:

9 1. promptly notify in writing the Requesting Party and the Non-Party
 10 that some or all of the information requested is subject to a confidentiality agreement
 11 with a Non-Party and identify the Non-Party;

12 2. promptly provide the Non-Party with a copy of the Stipulated
 13 Protective Order in this litigation, the relevant discovery request(s), and a reasonably
 14 specific description of the information requested; and

15 3. make the information requested available for inspection by the
 16 Non-Party.

17 (c) If the Non-Party fails to consent to disclosure of the confidential
 18 information, and the Party having the confidential information describes the nature of
 19 the confidential information to the Requesting Party in a manner that, without
 20 revealing the confidential information, will enable the Requesting Party to evaluate
 21 the need to attempt to compel disclosure of the information, then the Receiving Party,
 22 absent a Court Order, shall have no obligation to disclose the confidential information.

23 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 25 Protected Material to any person or in any circumstance not authorized under this
 26 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
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1 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
 2 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
 3 persons to whom unauthorized disclosures were made of all the terms of this Order,
 4 and (d) request such person or persons to execute the “Acknowledgment and
 5 Agreement to Be Bound” that is attached hereto as Exhibit A.

6 13. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 7 **PROTECTED MATERIAL**

8 If a party inadvertently produces or provides information which it believes is
 9 subject to a claim of attorney-client or work product privilege, the producing party
 10 may give written notice to the Receiving Party that the information is subject to a
 11 claim of privilege and request that the information be returned to the producing
 12 party. The receiving party shall within three (3) business days return the information
 13 to the producing party and delete any copies, electronically stored or otherwise, and
 14 certify that it has returned or destroyed all copies. Within five business days of the
 15 notification that the inadvertently disclosed information has been returned and/or
 16 deleted, the producing party shall produce a privilege log with respect to the
 17 inadvertently disclosed information. The return of the information by the receiving
 18 party shall neither constitute an admission or concession, or permit any inference, that
 19 the information is, in fact, properly subject to a claim of privilege, nor foreclose any
 20 party from moving the Court for an order that the information has been improperly
 21 designated or should be produced for reasons other than a waiver caused by the
 22 inadvertent production.

23 14. **MISCELLANEOUS**

24 14.1 **Right to Further Relief.** Nothing in this Order abridges the right of any
 25 person to seek its modification by the court in the future.

1 14.2 Right to Assert Other Objections. By stipulating to the entry of this
 2 Protective Order no Party waives any right it otherwise would have to object to
 3 disclosing or producing any information or item on any ground not addressed in this
 4 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 5 ground to use in evidence of any of the material covered by this Protective Order.

6 14.4 Filing Protected Material. Without written permission from the
 7 Designating Party or a court order secured after appropriate notice to all interested
 8 persons, a Party may not file in the public record in this action any Protected Material.

9 15. FINAL DISPOSITION

10 Within 60 days after the final disposition of this action, as defined in paragraph
 11 4, each Receiving Party must return all Protected Material to the Producing Party or
 12 destroy such material. As used in this subdivision, "all Protected Material" includes
 13 all copies, abstracts, compilations, summaries, and any other format reproducing or
 14 capturing any of the Protected Material. Notwithstanding this provision, Counsel are
 15 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
 16 and hearing transcripts, legal memoranda, correspondence, deposition and trial
 17 exhibits, expert reports, attorney work product, and consultant and expert work
 18 product, even if such materials contain Protected Material. Any such archival copies
 19 that contain or constitute Protected Material remain subject to this Protective Order as
 20 set forth in Section 4 (DURATION).

21
 22 **IT IS SO ORDERED.**

23 October 4, 2012

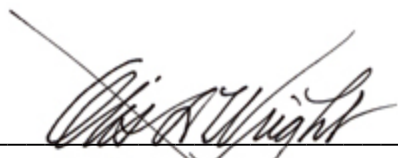
24
 25 
 26 _____
 27 Honorable Otis D. Wright II

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that
I have read in its entirety and understand the Stipulated Protective Order that was
issued by the United States District Court for the Central District of California on
_____ [date] in the case of *Lakim Industries, Inc. dba Quali-Tech Manufacturing
Co. v. Plaintiff Linzer Products Corporation*, Case No. 2:12-cv-04976 ODW (JEMx).
I agree to comply with and to be bound by all the terms of this Stipulated Protective
Order, and I understand and acknowledge that failure to so comply could expose me
to sanctions and punishment in the nature of contempt. I solemnly promise that I will
not disclose in any manner any information or item that is subject to this Stipulated
Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature: _____
[signature]